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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,031	07/02/2003	Mitsuzo Shida	88174	5856

7590 05/11/2004

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EXAMINER

MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,031

Applicant(s)

SHIDA, MITSUZO

Examiner

Jeffrey C. Mullis

Art Unit

1711

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit 1711

35 U.S.C. § 101 reads as follows

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

Claims 29-40 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. These claims are drawn to a use and are therefore not statutory.

Claims 3-5 and 15-17 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 from which claim 3 depends recites a process in which an adhesive is formed and therefore claim 1 is presumed to have adhesive properties and contain adhesive promoting resins. Therefore it is unclear if a material which is additional to those explicitly recited in claim 1 is intended to be added in claims 3-5. Similarly, claims 15-17 are unclear in that it cannot be ascertained if additional materials are intended to be added to the composition of claim 14 in order to obtain the compositions of claims 15-17.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under

Art Unit 1711

this section made in this Office action:

A person shall be entitled to a patent unless --
(e) The invention was described in (1) an application for patent, published under Section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-40 are rejected under 35 U.S.C. § 102(e) as being anticipated by Schombourg et al. (USP 6,448,343).

Schombourg et al. disclose a composition which contains a first polymer "a" rubber phase and a crystalline thermoplastic polymer phase "b" and in which the phase "a" is grafted. Note column 3 lines 7-16. Note also that column 3 lines 17-18

discloses that an aminosilane cross-linker is added. Note that the material may be used as an adhesive at column 8 lines 5-8. Note that an extruder is used during the process at column 7 lines 51-56. Note that the silane is mixed into a mixture after grafting at column 10 lines 38-46 and that the silane is present in the Examples in the form of, for instance, polypropylene VALTEC HL003 containing the silane at column 8 lines 23-24 or may include other polyolefin containing silanes at column 5 lines 45-53. Note that the other silanes as well as the VALTEC are said to be "porous". Therefore the polyolefins carrying the silanes are not prepelletized in that melting and pelletization would produce a non-porous material. In any case the SPHERILENE is explicitly disclosed in the prior art as being a material which is produced from a reactor. While applicant's claims such as claim 12 recite the presence of a monomer such as acrylic monomers, it is noted that the term "less than" includes 0 and they need not be present. Note that column 10 lines 38-46 discloses that the silanes (such as the Examples disclose are added in the form of a porous polyolefin such as VALTEC) are "mixed into the polymer blend after grafting of the maleic anhydride".

Claims 41-43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schombourg et al., cited above.

Schombourg et al. does not disclose any examples in which adhesive is applied to a substrate and a second substrate applied to the adhesive. However such a process was widely known at the time of the invention and given that Schombourg et al. discloses that his composition should be used as an adhesive, it would have been obvious to a practitioner having ordinary skill in the art at the time of the invention to use the composition of Schombourg et al. as an adhesive by applying the adhesive of Schombourg to a substrate and putting another substrate on the adhesive motivated by the requirement of Schombourg to use his material as an adhesive absent any showing of surprising or unexpected results.

Kempter (U.S. 5,744,553), cited of interest discloses that SPHERILENE is a polyolefin which is produced without conventional pelletization and that conventional pelletization leads to a smooth round surface. Note column 2 lines 45-47. Note also column 2 lines 62-65 which discloses that such materials have irregular absorbent open pore highly absorbent surfaces.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (571) 272-1075. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are

Serial No. 10/612,031

-6-

Art Unit 1711

unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (571) 272-1078. The fax phone number for this Group is (703) 872-9306.

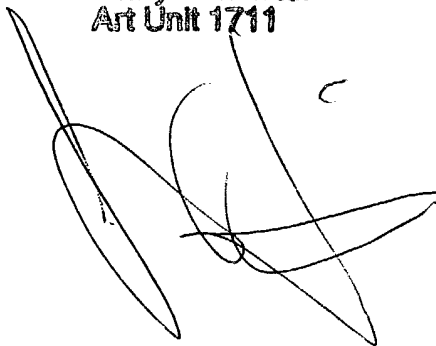
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-0994.

Jeffrey N.
Primary Examiner
Art Unit 1711

Jeffrey Mullis
Primary Examiner
Art Unit 1711

J. Mullis:cdc

May 6, 2004

A large, stylized handwritten signature in black ink, likely belonging to Jeffrey Mullis, is written over the printed name and title.